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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,489	09/08/2003	Han Chang Hsieh	9188.227US01	2029
23552	7590	01/15/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903				NELSON, JUDITH A
		ART UNIT		PAPER NUMBER
		3644		

DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/658,489	HSIEH ET AL.
	Examiner	Art Unit
	Judith A. Nelson	3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 08 September 2003.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-7 and 11-13 is/are rejected.
 7) Claim(s) 8-10 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 08 September 2003 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____.

DETAILED ACTION

Claim Objections

Claim 8 is objected to because of the following informalities: the typographical error appearing in line 6 of the claim, “from *th* bottom”. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,735,738 (Lake).

In reference to claims 1-5, Lake discloses a wall-mountable aquarium comprising:

a slim tank, including a transparent front wall (in conjunction structures 4, 32, 26 and 94);

a rear wall (86);

opposite left and right side walls (88 and 90) and a bottom wall (92), with the side and bottom walls (88,90 and 92) being considerably narrower than (as noted in fig. 1, 2, 5 and 7) the front and rear walls (in conjunction structures 4, 32, 26, 94 and 86);

a fixed enclosure (as best seen in fig. 5) provided externally on both the left and right side, by the extension of the front walls and the rear wall (in conjunction structures 4, 32, 26, 94 and 86) for containing part of accessory for the aquarium (such as the light (50) and the heater ((38) as noted in col. 3, lines 10-19); and

a frame (4) attached on the front wall (specifically transparent cover (26), which includes a see-through portion (26) therein to reveal (note col. 2, lines 57-68) only the living habitat inside the tank through the front wall (26).

Pertaining to claim 6, the Lake reference also teaches the enclosure (as best seen in fig. 5) provided externally on both the left and right side as being capable of opening/accessing laterally via the side panels (72 and 74) and of either the right or left enclosures.

Concerning claim 11, Lake further teaches the use of a lamp (102) located at the top of the tank (as noted in figs. 5 and 7), and being concealed by the frame from direct sight (inferably once structure (4) is in place).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent 3,735,738 (Lake).

Lake discloses the picture framed aquarium as claimed including a heater (38), however the reference fails to detail whether the heater is one provided with a controller for controlling the heater to operate and keep the water in the tank at a presettable constant temperature.

The Examiner takes Official Notice of the use of controllable heaters used in aquariums, and further it would have been obvious to one having ordinary skill in the art to have modified the aquarium of Lake, by incorporating a presettable controllable heater, so as to enable a caretaker to set the temperature of the water for varying fish types from fresh water to tropical fish and further since the use of such a heater would have been well within the general skill level of a worker in the art.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,735,738 (Lake), in view of U.S. Patent 5,090,358 (Waldman).

Lake discloses the claimed invention except for mentioning a background sheet being used inside the tank close to and covering the rear wall; or extending close to and

covering the left and right side walls, turning smoothly round the corners between the walls.

Suchowski discloses the use of an attractive decorative background sheet covering and in close proximity to the rear and side walls of an aquarium.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the picture frame aquarium of Lake, by incorporating a decorative background sheet being used inside the tank close to and covering the rear wall and extending close to and covering the left and right side walls, so as to add to the aesthetic appeal of the aquarium.

Allowable Subject Matter

Claims 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents 5,090,358; 43,062; 1,777,944; 1,974,068; 2,144,551; 2,814,895; 3,276,428; 6,415,739; 4,313,048 and 4,353,327.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judith A. Nelson whose telephone number is (703) 305-0984. The examiner can normally be reached on M-Thur. 9:00 a.m. - 6:30 p.m., alt. Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on 306-4159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 306-4180.


Judith A. Nelson
Examiner
Art Unit 3644

jan 
1/12/2004